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TO: Dana Tulis
Lisa Jackson
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Sam Coleman
All concerned US EPA employees
All concerned members of NOAA
Department of Interior
FDA
Federal Government employees involved in oil spill response actions and decisions from 1989 to present day

FROM: Steven Pedigo, OSEI, Inc.

DATE: March 25th, 2011

SUBJECT: Dana Tulis' response on March 24th, 2011 to my Cease and Desist letter to EPA of Feb. 2nd, 2011.

Dear Mr. Tulis, et al,

INTRODUCTION AND EPA CULPABILITY

Your patronizing and patently inaccurate letter of March 24th, 2011 is consistent with the numerous letters between the OSEI Corporation and the US EPA for the last 21 years.

It is important that you and all the people named above understand that a clear and dangerous pattern has manifested in our dealings with you since 1989 in regards to oil spill response actions and decisions by all those named. Your response was, obviously, written by a lawyer whose job was to evade the intent of my Cease and Desist letter, to mis-state what I said, and to continue to justify an inadequate oil spill cleanup response that has now caused the wrongful death of many US citizens, and wrongfully injured the health of hundreds of thousands, if not

millions of people, caused unbelievable injury to marine and wildlife species, destroyed the Gulf Coast economy, and destroyed the natural resources of the Gulf Coast.

The devastation you have left in your wake is astonishing. Because of the EPA's concerted efforts over the last 21 years to ensure that Corexit, in whatever version, is the only product that can possibly be used on a spill, you have fully positioned the EPA and its spill-associated employees to be held personally responsible for all the adverse actions it causes to human health and the environment. These are potentially criminal actions and, thus, you have stepped outside of the protection afforded government employees and are now liable, personally, for potential prosecution.

BP, the Coast Guard, the States, have all covered themselves legally by requesting the use of OSE II, the non toxic alternative to Corexit(see attached vetting letter). The State of Louisiana sent a direct Cease and Desist letter to the Coast Guard to stop using Corexit and chemical dispersants in their Gulf waters, and the Coast Guard and EPA violated the rights of the State as an RRT member by not complying and immediately stopping the application of dispersants. In fact, there are numerous and on-going reports of coastal residents seeing dispersants being freshly applied right up to present time, and there are now pictures of dispersants being applied by plane as recently as March 15th, 2011. (see attachement)

And so, it is imperative at this time that the EPA send a written order to stop whoever is applying corexit/dispersants. If they do not, then, by law, you have to arrest them or you become complicit in their illegal action. It would behoove you to understand the legal maneuvering others with whom you are associated have acted upon to protect themselves from culpability for the massive damage caused by Corexit/dispersants, and the liability that now fully rests on your shoulders for having supported it and not stopped it.

When the Coast Guard and the EPA failed to act upon the State of Louisiana's request to stop the application of dispersants, you violated the RRT's cooperative agreement with the State of Louisiana, which means they can now do what they think is best for their waters, shoreline and people, including arresting anyone that violates their formal requests, state laws, trespasses on their state property, or state waters, and without heeding any further attempted influence from you.

The EPA, along with all above named parties, have been complicit in all these adverse actions and their destructive impacts, in direct violation of the EPA's charter, your delegated charge, and the Clean Water Act. Senior executives of the EPA evidently need to read, or re-read, the EPA's charter and the Clean Water Act, and then reverse your current inadequate response activities, to follow the Act explicitly. This would prevent you from continuing to wrongfully harm others.

EPA SUPPORTS AND MAINTAINS A PRIVATE CORPORATION'S MONOPOLY

Your second paragraph is just more of the same misinformation the EPA has been handing out for 21 years. As Corexit 9527 has been the only product ever pre-approved by the EPA for oil spill cleanup, instead of using the term 'dispersants,' you would be more accurate to just use the term "Corexit." You have written 40 CFR to perpetuate this dangerous monopoly while making sure the door was shut to all other NCP-listed products. If you look at the EPA's record, you have pre approved 1 product out of the 200 or so products that have come and gone on the NCP list for the last 21 years; your track record has certainly been consistent in supporting the most toxic product to ever be on the NCP list, while preventing other, non-toxic products from utilization in situations like the Gulf of Mexico disaster where they are most needed.

UNNECESSARY DESTRUCTIVE "TRADE OFFS"

The second paragraph of your letter states that

"the use of any one option involves environmental tradeoffs and responders carefully consider whether skimming, booming, in situ burning, chemical countermeasures (such as chemical dispersants or bioremediation agents), or some combination of all of these may be necessary and appropriate to protect sensitive shorelines, water resources, or wildlife."

Although this statement is most certainly true in the worst way with Corexit, it is patently and outrageously FALSE when including OSE II in your meaning. I challenge you to name one "trade off" with the use of OSE II. In my Cease and Desist letter, I provided a large amount of supporting information to back up the statements made. From this voluminous amount of information, fully documented in your own files from tests done of OSE II over the years and the EPA's use of OSE II to handle the Osage Indian spill, it is clearly evident that there are only upsides with OSE II. If EPA officials can not come to a common sense understanding of this based on the enormous volume of data provided, then someone who has a better understanding of this field should have responded to my letter, and been in charge of spill response actions.

The Public Relations statement that "there are trade offs that have to be made," again, is not true with OSE II; however, when one strips away the PR façade of your statement, the unvarnished message is that "Corexit, which we are going to use no matter what, will destroy or harm certain numbers of people or things. Since we have justified it by alerting the public to the fact of 'tradeoffs,' this gives us approval for the needless damage we are going to cause with Corexit."

No question about it; there are enormous and unsatisfactory trade offs with the use of Corexit, which the American public will hold you and all the above

accountable for at some point. You have “traded off” the health and safety of your fellow citizens to run interference for a horrifically toxic substance. Whether or not you or anyone noted in this letter is aware of it, in regards to Corexit, thousands of concerned citizens, at this point, are cognizant of the arrogant disregard being displayed towards them by EPA’s on-going dissemination and tacit agreement with the spreading of false information regarding the dangers of Corexit, the health problems it is creating, the contamination of their seafood, and the poisoning of the Gulf’s waters and air quality.

Your statement in paragraph 2 has been a fundamental position consistently asserted by the EPA and other government agencies over the years. It is merely a convenient way to tell others “you really cannot do anything; only the EPA [who has *never* personally cleaned up a spill, by the way] can address this.” Your statement actually makes the case you should not allow the application of toxic chemicals, Corexit in US navigable waters, and especially on a large scale. Dispersants countermand the use of booms and make them useless.

EPA’s DESTRUCTION OF PUBLIC HEALTH AND ENVIRONMENT

As to your final statement in paragraph 2:

“Due to the large scale of the BP oil spill, varying weather and sea conditions, and type of discharge, responders used all of these techniques to minimize the impact of the spill on humans and the environment.”

Not one step of the response has taken into account the health and safety of humans and the environment. You have thousands upon thousands of Gulf Coast residents who are verifiably sick and/or dead as a direct result from your cleanup response methods. Your response has killed shocking numbers of marine and wildlife. There have been almost daily reports of massive fish kills or some sort of unusual marine life die off, for the past several months and in recent weeks the carnage, predictably, appears to only be increasing.

This is one more example of what we have observed with great regularity over the past 21 years in our interaction with the EPA wherein statements made by EPA employees do not match up with what is actually occurring. The observational and physical evidence of the on-going and massively destructive impact of the EPA-sanctioned use of Corexit thoroughly refutes your statement.

EPA VIOLATES CFR 40 BY USING A SINKING AGENT

In Paragraph 3 you state:

“Chemical dispersants, along with mixing energy, break up oil slicks into tiny particles that move into the water column so they may be more readily degraded by existing microorganisms in the water. The oil reportedly found in sediment layers you mentioned is not likely oil that was chemically dispersed because the tiny oil-dispersant mixture droplets are neutrally buoyant and neither sink nor rise but spread out in all directions according to underwater currents.”

This parsing of words in the face of real-life, observable facts just destroys your credibility even further.

The BP Deepwater Horizon blowout has proven beyond a shadow of a doubt that the dispersed oil inevitably sinks. I just spoke with a group in Pensacola today that has tested the tar mats on the seabed floor. They currently have mapped 11 huge tar mats just off the coast. They have discovered a way to prove the oil is BP's and the fact that dispersants have been applied to this sunken oil. Some of their previous work has just been released. These scientific test results refute your statements. Also, the previous results of oil spill “cleanup” with the use of Corexit over the past 21 years fully refute your statement that ‘dispersed oil does not sink.’

In the past, when Corexit has been used, the oil would initially do as you suggest, increase the impact of the oil into the water column covering a larger area than the original spill, depleting the water column's O₂, and destroying the marine species that live in the water column. The water column is where the greater proportion of marine species dwells; so dispersants adversely impact their living environment, as this spill has irrefutably proven. However, after a period of three to four weeks, the oil finally sinks to the sea floor, and this has, also, been conclusively documented.

EPA SUPPORTS COREXT WHICH DESTROYS THE HEALTH OF PEOPLE AND THE ENVIRONMENT

I am pasting in below a section from my Cease and Desist letter which it appears you are either ignoring or you did not actually read. In your letter, you repeated a line in regard to dispersants as though EPA has allowed multiple brands, when you have only allowed the use of Exxon's dispersants: the two versions of Corexit. However, you or BP went back to using Corexit 9527 after the ghost capping of the well was stated to the public.

“Independent scientists have proven the spill is still releasing 2,000,000 gallons of oil a day and have reported this fact several times stating that there are as many as 18 breaches currently in the seabed related to the Deepwater Horizon's blowout.

Corexit 9527A is still being applied. Despite BP's and EPA's assertions that no Corexit has been applied since July of 2010, pictures of drums at beach deployment

sites with shipping dates in August and pictures of the empty drums in November are all over the Gulf states. Although, per the EPA's National Contingency Plan, it is illegal to sink oil, the oil has been sunk by Corexit. This has been proven through University scientist core sampling, as well as videos, and the oil depth on the seabed is 5 times deeper, as of scientific reports on February 1st, 2011, than it was in August of 2010. There have been immense numbers of various species found dead, some on shore and some off shore. Attempts to document the numbers of dead wildlife and marine species by two different groups from the use of Corexit and the oil are ongoing as reported on the internet. Enormous amounts of seaweed grass has been dissolved or destroyed, and as one scientific study detected, Corexit has genotoxic and mutagenic effects on phytoplankton.

Thousands and thousands of people have had their blood tested at this point and have shown alarmingly elevated levels of VOC's; way above and beyond even the average residents in the Louisiana and Mississippi geographical area called "cancer alley". People have reported the toxic effects of dermal exposure, inhalation and ingestion through seafood tainted by Corexit and dispersed oil. All these people have to do is type "2 butoxy ethanol Valdez" into a search engine to see their likely fate, depending upon length of exposure and pathway. This will then allow those exposed to determine how much longer they have to live. 10 years will be the average time before these people start dying off. Per the Valdez response track record, the elderly and children will have less.

There have been at least two reports that 4 people have died from the exposure to Corexit on Grande Isle, LA. There are significant numbers of independent scientists that have proven the seafood is not safe and exceeds thresholds for safe human consumption. The US Air Force classifies 2 butoxy ethanol as a neuro toxin, as was reported in August. The ocean water tests consistently show excessive amounts of hydrocarbons and DOSS. Now Woods Hole Oceanographic Institute has reported Corexit with DOSS does not degrade, prolonging the toxic effects of this oil blowout to the public's health and the health of the marine and wildlife indefinitely, as the Valdez spill has proven.

What person with any common sense would even consider the use of this horribly toxic, no end point, destructive product?"

My Cease and Desist letter shows the unbelievable difference in the inadequate response with the Corexits, compared to the safe, proven, experienced OSE II. The EPA's continued authorization of, and assertion of the rightness of using Corexit defies all common sense, let alone any of the verifiable scientific documentation.

Reports in the Gulf States are coming from, literally, thousands of people, and hundreds of scientists. Have any of you thought this through? The Woods Hole Oceanographic Institute test, as well as other independent scientists' tests refute your "end point" for dispersants.

WHAT IS EPA'S REAL AGENDA?

In paragraph 3, you state:

"EPA is already working on the regulatory requirements associated with the authorization and use of dispersants and initiating research into the fate of the oil and dispersants in the environment."

So, with all of the data in hand as to how devastating Corexit is to the public's health, the health of the waters and the marine and wildlife, and the fact that its MSDS sheet states it can cause kidney failure and death and that responders have to wear a chemical suit and a respirator to work with it, you are "working on regulatory requirements" to, in essence, merely limit its use, but allow its continued use? *Really?*

In 2005, the EPA was establishing the means to apply this horrifically toxic substance near shore. This product completely violates your charter. It is illegal, and should never be used in any body of water for any reason. The fact that you are still considering this killer product is evidence that, within the EPA, there is focus on and support of other purposes currently not known to the broad public, that have nothing to do with protecting the environment and human health. If this were not true, why would you ever use an inferior product (Corexit) to a superior product already on the NCP list (OSE II) which actually cleans up the oil safely without any collateral damage?

Sinking agents have already been banned by law. If the EPA was operating to forward its stated mandate, it would take the next step to ban dispersants permanently from US waters since they do not clean up oil but merely move it out of sight and then sink it. Spreading it throughout the water column and letting it sink into the sediment is less advantageous than leaving it on the surface, where it causes less harm. There is legislation being written to ban Corexit and other toxic chemical dispersants since their use only produces an inadequate spill response that causes more toxicity and adverse conditions than it solves; in other words, a negative gain response. The fact that 2 butoxy ethanol is a carcinogen in a rat test, after the concentration was lessened so as to all the rats to live long enough to be tested. You have allowed a carcinogen that kills for 21 years! To **ban dispersants** is the only true and correct regulatory action, at this point, if you want to adhere to the EPA's charter.

PRIVATE CORPORATE INFLUENCE ON EPA'S "SCIENTIFIC" RESULTS

In the early nineties, when I was scientifically documenting the efficacy of OSE II, I asked EPA regulators what test I needed to perform to prove OSE II's effectiveness.

I was told by Al Venosa of the EPA's research and development branch that I needed to do a respirometry test. At my expense, the test was performed and our statements of OSE II's efficacy were proven. I was then told by the EPA that, since I had been the one who paid for the test, it was not really credible and that a third party must perform it to be valid. We then got a 3rd party to test it and, once again, proved its efficacy beyond any further doubt.

The EPA is now in the same box when you make the statement, "Note that of the thousands of air, water and sediment samples collected and analyzed, none showed any increased level of concern for either dispersants or oil for aquatic life or human exposure."

First of all, your tests are not scientifically independent or valid since BP paid for your and NOAA's testing. The fact that independent scientists in universities and other research centers have thoroughly refuted your tests with their own independent tests, makes your results look even more suspicious and utterly unreliable as a source of accurate information. Your tests related to Gulf waters, air quality, and seafood safety are counter to all independent testing by independent scientists; and your air tests in the areas where the most likely air contamination could occur have, oddly, not been released.

EPA's LOSS OF CREDIBILITY

Your following paragraph is really hard to accept:

"EPA believes dispersants should only be used sparingly and when absolutely necessary. Since the well was capped, only 200 gallons of dispersant have been applied to the Gulf, but constant monitoring continues."

As I pointed out earlier, there is absolutely no place for a product that sinks oil into the water column and then, as the evidence has proven, sinks the oil to the seabed. First of all, thousands of people know and have direct evidence that the well was not capped at the time it was stated it was, if ever. Congress has been given photographs and video of this fact. The huge amount of new oil in the Gulf obviously is coming from the breaches in the seabed that are releasing the estimated 2,000,000 gallons of oil a day that I mentioned in the Cease and Desist letter and which are now, predictably, showing up in a big way from Texas to Florida.

The contradicting statements earlier this week that it was "Mississippi sediment," and then "No, wait! It is brown algae," and then "No, it's from another well," shows a group of people in the government that are willing to directly lie to the public, at will. Obviously, from your position, you are not able or willing to admit the facts; however, you are not making your case either. The EPA, NOAA, and FDA have completely lost credibility since almost all your statements have been refuted by the independent facts, and independent scientists.

The statement that 200 gallons of dispersant has been applied may be true, but one would need to clarify as to which dispersant has been applied. There are independent scientists who estimate that a minimum of 6,000,000 gallons of Corexit have been shipped to the Gulf States. I will attach photographs that show several hundred 2,000 gallon containers of Corexit 9527 that were shipped to the Gulf in early August, and 167 of the 2,000 gallon Corexit containers were subsequently photographed empty. These containers were near a staging area where boats would come to get filled up with Corexit 9527a.

I will send you a set of photographs of Corexit being dropped from a C123, or possibly a C130 near shore in Mississippi last week on March 15, 2011. I believe they carry, in one single load, 10 times as much as what you stated is the total amount of dispersant volume that has been applied since the "capping". The person who took this photo reported that between 8 and 10 planes were spraying Corexit, with its unmistakable odor, and dropping their load near the beach during the 2-mile walk she took there that morning. In this pictorial you will see freshly applied foamy Corexit on the water and shoreline. So, again, you might want to recant your previous statement to avoid even more credibility problems.

EPA VIOLATES THEIR OWN REGULATIONS

Paragraph 5 is truly disappointing.

"Under the National Contingency Plan (NCP), an On-Scene Coordinator (OSC) carries the responsibility for directing the response to an oil spill. The OSC consults with the Regional Response Team (RRT), which consists of representatives from the state, the EPA region and, in the marine environment, the U.S. Coast Guard, who provides the appropriate regional mechanism for development and coordination of assistance and advice to the OSC during response actions."

First of all, do you really believe that someone who has discussed 40 CFR and the regulations with the EPA as much as I have over the past 21 years needs you to repeat the simplest of regulatory basics? However, your response is no surprise. The patronizing nature of this is the customary tone of response from the EPA, particularly when asserting regulations they have violated.

The EPA denied the request for use of OSE II from the Co chair and the State without any reason given, making the regulation meaningless when it is not adhered to in a fair and equitable manner. The violation by the EPA of the intent of this regulation in its spill response to the Deepwater Horizon makes those regulations inapplicable and unenforceable due to your own actions.

The OSC, three state senators, the City of Destin, FL, and Louisiana DEQ have now all, on several occasions, formally requested the use of OSE II so that they could immediately begin to cleanup this disaster and prevent further destruction to their waters, environment and their people. You, and your department, have actively and

arbitrarily stopped OSE II's use through your communication relay, Sam Coleman, without any scientific reason given, or any reason at all. I proved in the Cease and Desist letter, and have proven repeatedly and conclusively in earlier letters and tests, including the tests just performed by BP at LSU, that there is no legitimate reason not to use OSE II. Your actions have rendered the regulation ineffective, since you have shown to have no intent on changing the response to a safer, non toxic alternative, in spite of all the collateral damage to the eco system and humans that your current response is producing. The dictatorial track record of your intent to continue to use Corexit no matter what, has been firmly established. Dictators do not promulgate regulations they just dictate. It is a waste of time and money to promulgate regulations, since they seemingly have no chance of being utilized except at the arbitrary whim of the EPA.

I was told by Dr. Tsao, the head of BP's Bio Chem Strike Force which is tasked to test alternative response methods, that the RRT system was "not a democracy" and that any one person on the RRT could stop the implementation of a product if they say 'no'. Dr. Tsao's statement has proven to be untrue, since the Cease and Desist request, made by the State of Louisiana (a member of the RRT), to stop the use of Corexit was ignored by the EPA Co Chair of the RRT and this effectively prevented the State from protecting their people and their shorelines. Any group that can be shut down by one has left themselves open to being unduly controlled and easily corrupted. It is much harder to fraudulently control a group if there is a 'majority rules' decision-making process. If this had been the case, OSE II would have already been applied. The EPA has used this one entity aspect of the RRT to stop OSE II however.

Another point in paragraph 5:

"RRTs conduct advance planning for the use of dispersants, surface washing and collecting agents, burning agents, bioremediation agents, or other chemical agents in accordance with the regulations under Subpart J of the NCP."

Your statement, once again, proves how you, the EPA, and the rest of the RRT have violated this regulation.

If you look, you will find that, in 40 CFR under the "Bioremediation" category, there is a blank page where "advance planning for the use of.." should be. There has never been any advance planning regarding the use of bio remediation by the RRT. When, 5 weeks ago, the Coast Guard decided to implement OSE II and began doing the advance planning necessary for logistical and tactical deployment of the product, the EPA stopped them.

However, you have planned and tried to expand the area of use for, as you state, "dispersants." Contradictory to this statement, however, is the fact that, even among the chemical dispersants category only one NCP product has ever been pre-approved for use in the past 21 years, and even in that category, it is the most expensive, least effective, and most toxic one: Exxon's Corexit. Therefore, the EPA,

as stated above, has actively allowed the illegal monopoly in the field of oil spill remediation that has caused America to be behind third world countries in effective oil spill response

You can go practically anywhere in the world now and find environmental regulatory officials that know and understand how horrific Corexit and chemical dispersants are. If you put "Corexit" into a search engine, it brings up the toxic components of Corexit, along with all the horrific problems they cause on numerous pages. The label states Corexit is a deadly poison, the toxicity tests on your web site show Corexit to be deadly to marine species, it is scientifically proven to prevent degradation. The observable effects after 11 months shows it does not clean up spills, compromises health. How is it possible there is any discussion at all to its use, and especially its future use. To approve this product even to be on the NCP list is a potential crime against the environment and humanity.

Conversely, as of today, if you put in a search engine "OSE II", you will not see one report of any adverse effects of the use of OSE II as a first and only response tool. Despite the fact that OSE II has cleaned up over 16,000 oil spills in the past 21 years and has dealt with far more oil spill situations than Corexit, you will not find a single negative report of collateral damage. The reason for this is simple: it is non-toxic, it swiftly detoxifies the oil as opposed to making it more toxic as Corexit does, and then it turns the oil into water and CO₂ as opposed to spreading the oil broadly throughout the water column and into the seabed sediment killing or harming all the marine life it comes in contact with like Corexit does.

EPA STOPS THE OSC FROM CLEANING UP THE OIL

You go on to state,

"Although a product is listed on the NCP Product Schedule, such a product cannot be applied without an OSC's authorization."

Again, this is elementary school oil cleanup response data. However, I will address this with the facts, since you brought it up.

On July 10th, 2010, the Coast Guard headquarters sent their first letter for the OSC to take action in regards to the utilization of OSE II for response to BP's oil blowout. The FOSC was unable to get the Co Chair (represented by you and your agency) to concur; so you stopped the OSC from changing the response to a safe, non-toxic alternative that actually cleans up spills. This is just one more example of the EPA violating their own regulations, and, without a stated reason, actively and purposefully thwarting the well-intended efforts of others to clean up this disaster.

EPA STOPS GULF DISASTER FROM BEING RESOLVED

Paragraph 6:

“With respect to bioremediation agents like OSE II, EPA in conjunction with the US Coast Guard, collaborated with scientists from the National Oceanic and Atmospheric Administration (NOAA) and the Deepwater Horizon Science and Engineering Review Team (H-SERT) which consists of scientists from Louisiana State University, University of Louisiana at Lafayette, University of New Orleans, Tulane University, and Southern University on the use of innovative technologies to remediate the Gulf of Mexico region.”

This paragraph is interesting because, as I mentioned before, Coast Guard Headquarters sent a letter to the FOSC stating to the FOSC to take action with OSE II for the BP spill, and, again, Sam Coleman stopped it. That letter is attached. Note that this was the second letter I received from Coast Guard headquarters stating predominantly the same thing during a major oil spill. The first one I received was from a Coast Guard employee, a Mr. Thibodeau, during the Valdez incident stating OSE II should be used. At that time, again, EPA actively thwarted it.

NOAA's involvement in this group meeting is suspect since I had to address a letter a few weeks ago from Charlie Henry of NOAA that showed he has no understanding of bioremediation or spill response. He stated he would not vote for a product that had a surfactant in it, and, yet, he had already done so for Corexit, which has numerous surfactants. My response to him was not flattering; however, it was direct, factual, and is also attached.

So the Co Chair (Coast Guard), as I have firmly established, wanted to utilize OSE II. Next is the H-SERT team. The member universities you mention were several of the same universities that sat on Governor Jindal's fast track panel to find a solution for the BP Deepwater Horizon blowout.

After some of the H-SERT members watched OSE II successfully address oil on the Louisiana Capitol lake which we conducted in front of Senators, lawyers, DEQ personnel and secretaries, the Governor's fast track committee members were asked to review OSE II. I submitted volumes of information, along with the brand new (at that time) EPA NCP test from LSU which, once again, verified OSE II's placement on the NCP list, and proves OSE II converts oil to CO₂ and water.

At approximately 7:00 PM on the evening of May 5, 2010, we then received a call that stated the Governor's fast track review members (some of the same ones mentioned in your panel) had stated that OSE II has merit and they should take a serious look at utilizing OSE II. They said that I, along with my Louisiana associates, should meet in the Governor's office the next morning at 8:00 AM.

Kevin Barbier, David Fa-kouri and I met in the Governor's office, and they stated that a LA DEQ personnel would meet us at Shell Beach and then, together, we would

go out to the Chandelier Islands to demonstrate OSE II in the field. While there at Shell Beach, a Graig Taffaro poured a mixture of waste oil and diesel onto the water and OSE II was applied to it. ABC filmed the initial successful effects. There were staff from LA DEQ in attendance, as well.

Just after this, the military helicopter showed up to take us to the islands. When we were just about to climb on board, a call to stop us from going to the Chandeleur Islands was received. Graig Taffaro told us we were not allowed to utilize the helicopter. This effectively stopped the field test from occurring; but, once back in Baton Rouge, EPA's Sam Coleman had Dwight Bradshaw of LA DEQ give me a veiled threat that, if I found another form of transport and went back Friday to conduct the demonstration, there "would be consequences" for doing this from the RRT. So, there we were, in the middle of the largest environmental disaster that has ever occurred, with massive amounts of oil bearing down on the Gulf State's shorelines, with massive numbers of marine and wildlife dying, the threat of annihilation of the seafood and tourism industries, and the EPA actively preventing a proven non-toxic solution from being implemented.

Does this sound like an organization that wants to protect the natural resources and the health and welfare of the American public?

Once Coleman stopped the demonstration, I commented to Kevin, David, and the official from LA DEQ, that LA would be destroyed by the EPA's actions, an unfortunate but prophetically accurate statement based on what has followed. I will attach the initial time line with the LA legislature for you to see the fruition of the EPA's actions and decisions.

FALSE INCLUSION OF OSE II IN MICROBIAL PRODUCT CATEGORICAL STATEMENTS

Regarding your statement that "This team reached consensus that bioremediation would provide limited value for oil discharges in general":

The problem with your group's statement is that it was for microbial products, **not** OSE II or fertilizer. The letter sent out publically by them regarding this made a futile attempt to justify the use of oil company fertilizer, code word "mineral nutrients," a PR phrase which was coined by the EPA's Al Venosa. The group did not discuss OSE II directly, and, as OSE II is not a microbial product, the statements contained in that letter do not apply to OSE II. Moreover, as described earlier, the H-SERT members would have remembered telling the LA Governor that OSE II had merit.

I was given a copy of this letter by LA DEQ at the same time that they alerted us to the fact that their request to use OSE II, made just two days earlier, had been turned down by the EPA's Sam Coleman without reason. I wrote a response to this letter

showing that, in fact, the letter from the EPA, Coast Guard and the H-SERT team stating that it was important to note that OSE II does not have any of the issues about which they were concerned, nor is it a microbial product. Thus, their letter did not, in any way, relate to OSE II. In fact, the letter, through the EPA's and the H-SERT's own statements, makes the case for using OSE II rock solid. My letter is attached.

So your letter is misrepresenting the facts in regards to the H-SERT meeting and subsequent letter in which they decided not to use microbial products and covertly implying that their statements relate to OSE II when they didn't.

EPA PROMOTES SCIENTIFICALLY PROVEN-TO-BE-UNWORKABLE FERTILIZERS

Also in paragraph 6:

"There may be specific situations where bioremediation might be considered after a thorough evaluation of the site-specific conditions (including oil composition and concentrations and an assessment of nutrient and oxygen limitations) and limited testing to ensure the benefits outweigh any risks before a decision to implement such a course of action is made."

Again, these statements are in regards to mineral nutrients and oil company fertilizers. I pointed out that Al Venosa, in the trials he conducted, could not get fertilizers to work, and had, in fact, created a massive fish kill through the use of them. Yet this group of learned people agreed there was a place for a tried and *unsuccessful* fertilizer product that isn't even on the NCP list. This panel's discussion was limited and focused on lack of nutrients and oxygen, which the head of the panel, EPA's Sam Coleman, already knew didn't work. It is most likely that this group of scientists was probably unaware of the past failed attempts with fertilizers by the EPA's Al Venosa, and, obviously, Sam Coleman didn't inform them of that fact. Again, the limitations mentioned in the letter which specifically have to do with nutrient and oxygen limitation are not factors related in any way with OSE II. They only apply to fertilizer and microbial products. These are not issues with OSE II.

Dr. Tsao just completed a test of OSE II compared to fertilizers in LSU labs and we just last week received those results. I will attach Dr. Tsao's report showing the fertilizer was unable to reduce PAH's which the EPA has shown to be the most toxic part of spilled oil that needs to be addressed. In fact, Dr. Tsao had to use such a volume of fertilizer to water to get even a moderate result that it would have precluded fertilizers ever being used in the field for oil spill response, since at that volume it would have nitrified the water and killed anything in the nearby area. This is the same thing that happened with EPA's Al Venosa when he caused the massive fish kill.

INACCURATE AND MISLEADING INFORMATION
GIVEN TO GOVERNOR JINDAL

The above group's letter, which was sent to Governor Jindal, did not fully give him all the information he needed to protect his State. And, again, there was no mention of OSE II directly.

Dr. Tsao's recent report of his test results of OSE II compared to fertilizers at LSU laboratories proved OSE II equally remediates alkanes and PAHs successfully, unlike fertilizer application which had modest workability on alkanes (the non-toxic part of hydrocarbons) and was practically worthless when dealing with PAHs. This is one more test from a major oil company making the case for OSE II.

In fact, in his report, Tsao even admitted that BP still had oil to clean up. Note that he made that statement before the massive amount of fresh oil that is now inundating the shores of Louisiana, Mississippi and Florida showed up. And he stated that BP would be implementing bioremediation in Bay Jimmy.

Remarkably, his report specifically stated that bioremediation is successful at remediating oil. This is the first time in 21 years that I am aware of an oil company admitting this. And OSE II is now proven by the responsible party of this oil blowout disaster to be most effective at cleaning up their dispersed oil.

EPA'S CHOICE: STICK WITH THE
CURRENTLY INADEQUATE DESTRUCTIVE RESPONSE METHOD
OR CHANGE TO THE ONLY FIRST RESPONSE NON-TOXIC METHOD

I responded to Dr. Tsao's report, asking him to assure me, since he had now proven to Sam Coleman that OSE II does not sink oil into the sediments, (as though the OSE II dispersant test, all the video and photographic documentation gathered over the past many years had not already proven that), and the fact that the stated concerns by NOAA's Charlie Henry had been fully addressed, that there should be no reason OSE II could not move ahead to be implemented in cleaning up this spill.

On March 23, 2011, Dennis Marketic, an OSEI associate, received an email from a BP official at 8:34 PM stating,

"Dennis believe me, Dr Tsao will contact you just as soon as we get the go ahead ..we have had to complete all of our lab testing, and then submit it to the EPA and eventually to RRT-6 for review...and that has taken time....so just as soon as we hear, we will let you know."

Once again you and the EPA have a choice: you can continue to stand in the way of the safe, non toxic alternative to cleaning up this epic disaster, or you can change the response by getting on board with the responsible party, Coast Guard, Governor Jindal, three State Senators, LA DEQ, ADEM, and the city of Destin. The change in response to OSE II would give all involved hope that the oil, and gulf waters could be cleaned up in a meaningful, non toxic way that would return the Gulf to pre spill conditions. The shoreline, including beaches, marshlands, estuaries and affected bayous could all be cleaned up rapidly making it safe for the public. Once that is done, we clean the waters outwards moving in the direction of the on-going breaches. We would, then, only have to address the ongoing part of the spill: the gushing oil coming up from the fractured seabed floor and the well head if it is continuing to leak, which would allow the on-going leaks to be contained in a finite, minimal area around the breaches.

EPA VIOLATING CLEAN WATER ACT - OSE II CREATES CLEAN WATER

When this all started, I did not have an interest in getting involved in the Deepwater Horizon clean up because I knew that the regulations you have used for the past 21 years allowing Corexit to be used at the great detriment to the environment is the same set of protocols you would be using to respond to this disaster. You have a closed system that you perpetuate behind regulations; regulations you yourselves, do not follow.

Allowing massive quantities of a poisonous, caustic, neurotoxin to be spread throughout and pollute the Gulf's delicate and once vibrant eco system is a gross violation of the Clean Water Act. OSE II would quickly return the Gulf waters to at least their pre-blowout condition, allowing the environment and the marine and wildlife to begin to recover, protecting the public from further toxic exposure, and giving the Gulf Coast residents hope they can regain their health and a reasonably safe environment for their children, and revitalize their fishing industry, tourism industry, and traditional way of life.

SUCCESSFUL TESTS COMPLETED...AGAIN: WILL EPA NOW ALLOW NON-TOXIC CLEAN UP OF THE GULF?

Paragraph 7:

"The Gulf Restoration Task Force will determine the appropriate strategies used for restoring the Gulf of Mexico. If chemical or bioremediation agents are needed for specific restoration areas, the Task Force will rely on the Product Schedule for

insights.”

After conducting successful tests on OSE II in LSU labs, BP is attempting to present OSE II's test results to EPA and the RRT to utilize OSE II in Bay Jimmy. Are you stating the EPA will now agree with the request to utilize OSE II, since you would allow the task force to rely on the EPA's "Product Schedule" for Gulf Coast restoration? If this is true, then BP and the RRT should be able to do the same.

Thankfully, there is a new direction oil spill response is taking around the world. Corexit is being scrutinized and banned in more and more countries, while OSE II is being approved as a first response tool in more and more countries. How is it that the US EPA, an agency of the most powerful country in the world, is still clinging to the use of an obviously bad product? It defies common sense.

FOLLOW UP PER YOUR REQUEST

Thank you for the information that the OEM is interested in meeting with me. I will take you up on this when time affords it in New Orleans and will have key associates of OSEI present. I will call some time later to set up the meeting. If you are interested in information regarding the field demonstration performed in Mississippi at the direct request of Senator Gollot, I strongly recommend you call him since it was his show. Senator Gollot just before the start of the demonstration gathered all 50 to 60 people around and stated I dare anyone to try to stop this demonstration and the RRT IV EPA personnel, made no comment, so it was assumed everyone was on board with the demonstration. We noticed there were a few camera shy gentlemen so I made sure David Fakouri got all of them on camera. We followed instructions we were given and I stood by to watch and comment.

I do hope that you have a sincere interest in changing 40 CFR subpart J. There is no question that this needs to occur.

SUMMARY AND KEY QUESTION

I have addressed this letter in a pointed and harsh manner since nowhere in your letter did you mention the enormous amount of information that OSEI has submitted over the years to the EPA, the numerous successful tests and demonstrations that have conclusively proven the effectiveness of OSE II, nor any of the extensive past history of successful clean ups it has achieved. Nor is there any mention that, despite last week's successful test results conducted by BP at LSU, that the EPA is now going to allow OSE II to be utilized for the on-going and catastrophic Deepwater Horizon blowout.

The contact I have had with several Congressmen requires that I copy this letter to them. They are interested to see if the EPA is going to move forward with OSE II. Since learning of OSE II they have asked, "Why is this not already being used?"

I have one key question for you and I would appreciate a quick and straight forward response. Now that OSE II has conclusively proven both in the field and in the LSU labs to be, by far, the most effective first response tool with no collateral damage for cleaning up BP's oil blowout in the Gulf of Mexico, is the EPA going to allow OSE II to be used by BP or anyone else for this BP Deep Horizon Macondo spill, and or its aftermath, in case you do not admit it is still leaking.

Steven Pedigo
Chairman/CEO OSEI Corporation